

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 4377 of 1999

to

FIRST APPEAL No 4388 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI

and

Hon'ble MR.JUSTICE C.K.BUCH

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
  5. Whether it is to be circulated to the Civil Judge? : NO

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SPL.LAQ OFFICER

Versus

BHIKHUBHAI BHIMSANGBHAI PATANWADIA

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Appearance:

MR KG SHETH, AGP for Petitioners

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CORAM : MR.JUSTICE M.H.KADRI

and

Date of decision: 17/04/2000

COMMON JUDGEMENT ( PER : M.H.KADRI, J )

1. Appellants filed these appeals under Section 54 of the Land Acquisition Act, 1894 read with Section 96 of the Code of Civil Procedure, 1908, against common judgment and award dated 5th August,1998 rendered by the

learned Second Extra Assistant Judge, Vadodara, in Land Reference Cases Nos. 2780/97 to 2791/97. As common questions of facts and law arise for our consideration, we propose to dispose of all these appeals by this common judgment.

2. Lands of the respondents came to be acquired for the public purpose of construction of canals under the Narmada Canal Project, by a notification issued under sec.4(1) of the Act which came to be published in the Government Gazette on 16th September,1994.The land owners filed their objection under Section 5A of the Act against the proposed acquisition. After considering their objections, the Land Acquisition Officer had forwarded his report to the State Government as contemplated by Section 5A(2) of the Act. On consideration of the said report, the State Government was satisfied that the agricultural lands of the respondents which were specified in the notification published under Section 4(1) of the Act were needed for the public purpose of "Narmada Canal Project". Therefore, declaration under Section 6 of the Act was made which was published in the Government Gazette and interested persons were, thereafter, served with notices for determination of compensation. The claimants appeared before the Land Acquisition Officer and claimed compensation at the rate of Rs.100/per sq.mt.. but, having regard to the materials placed before him, the Land Acquisition Officer made his award on 30th December, 1996 and offered compensation to the claimants at the rate of Rs.4.36 per sq.mt. for non-agricultural lands and Rs. 6.54 per sq.mt. for

irrigated lands. The claimants were of the opinion that the compensation offered by the Land Acquisition Officer was inadequate. Therefore, they submitted applications in writing under Section 18 of the Act requiring the Land Acquisition Officer to refer the applications to the Court for determination of adequate compensation. Accordingly, references were made to the District Court, Vadodara, which were numbered as Land Reference Cases

Nos. 2780/97 to 2791/97. All the land reference cases came to be consolidated and the parties led common evidence in Land Reference Case No.2786/97.

3. Before the Reference Court also, the claimants claimed compensation at the rate of Rs.100/ per sq.mt. To substantiate the claim for enhanced compensation, claimants examined Mahendra Bhikhubhai who was the claimant of Land Ref. Case No. 2785/97. He deposed that acquired lands were having high fertility and claimants used to raise two crops in a year. He produced previous award rendered in Land Ref. Case No. 1592/95 at exh.21 wherein market value of the acquired lands of village Kurali was determined at the rate of Rs.13.95 per sq.mt. He deposed that lands of village Kurali were at a distance of 4 KM away from the acquired lands and acquired lands of village Kurali were having same fertility and, therefore, previous award at exh.21 was, in all respect, relevant and comparable for determination of the market value of the present acquired lands. Reference Court, relied on the previous award exh.21 in respect to the acquired lands of village Kurali for the determination of the market value of the present

acquired lands and awarded compensation of present acquired lands at the rate of Rs.13.95 per sq.mt. Reference Court also extended statutory benefit under the Act in favour of the respondents which has been challenged by the appellants by filing these appeals.

4. Bare reading of the schedule attached to the common judgment and award makes it abundantly clear that in all reference cases, the claim of the compensation awarded by the Reference Court do not exceed Rs. 17,000/. It is the consistent practice which is followed by various Division Benches of this Court that wherein claim involved in the Land Reference Cases is less than Rs.35,000/, appeal should be dismissed on the ground that it involves petty claim. Claimants have lost their only source of livelihood i.e. their agricultural lands which were compulsorily acquired for the public purpose of Narmada Canal Project. If these appeals are admitted and kept for final hearing, it would cause great hardship and financial loss to the claimants because they will have to incur expenses of engaging advocate and other miscellaneous expenses. Therefore, these appeals require to be dismissed on the ground of petty claim alone. We, however, make it clear that we have not gone into the merits or de-merits of the References filed by the claimants and this judgment will not be cited as a precedent for the similar appeals filed for the

determination of the market value of the acquired lands arising from the very acquisition of Narmada Irrigation Project.

5. As a result of foregoing discussion, First Appeal Nos. 4377/99 to 4388/99 are hereby dismissed. No order as to costs.

17.4.2000 [ M.H.KADRI, J ]

[ C.K. BUCH, J ]

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